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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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GRAY, PLANT, MOOTY, MOOTY & BENNETT, P.A.			PARSLEY, DAVID J	
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MINNEAPOLIS, MN 55402-0906			ART UNIT	PAPER NUMBER
			3643	

DATE MAILED: 08/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/773,504	AANENSON ET AL.	
	Examiner	Art Unit	
	David J. Parsley	3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Detailed Action

Amendment

1. This office action is in response to applicant's amendment dated 6-28-05 and this action is final.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7, 12-14 and 24-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,250,650 to Fima in view of U.S. Patent No. 4,799,327 to Treon and U.S. Patent No. 4,727,674 to Garr.

Referring to claim 1, Fima discloses a lure body – at 20, a jacket – see at 12 in figure 1, installed on the body made of a light transmissive material and configured to visually resemble a bait attractive to a sport fish – see for example figures 1-4, the body including a housing with generally light transmissive sidewalls – see at the interior of 20, and an interior space for accommodation of display lights – at 28,40, a first light – at 38, installed in the housing parallel to an intended direction of travel of the lure through a body of water – see for example figures 1-

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4, and viewable through the sidewalls of the housing, a display light – at 40, installed in the housing aft of the first linear bank of lights and including an aft facing light – at 40, a fiber optic bundle – at 48, having a first end connected inside the housing next to the aft light – at 40 as seen in figures 3-4, so as to receive light from the aft light, and a second end extending aft out of the housing to transmit light from the aft light – see for example figures 1-4, a battery pack – at 50, installed in the housing and connected to the lights – see for example figures 3-4, and an on/off switch – at 28-34, connected between the display lights and the battery pack to turn the display lights on and off – see for example figures 3-4 and column 2 lines 62-68 and column 3 lines 1-23. Fima does not disclose the first light is a linear bank of lights. Treon does disclose the first light – see the sidewalls of the lure in figure 1, is a linear bank of lights – see for example figure 1. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Fima and add the linear bank of lights of Treon, so as to allow for the light to be made more uniform along the length of the lure. Fima further does not disclose a circular bank of display light installed in the housing aft of the first lights. Garr does disclose a circular bank of display lights – at 3, in the housing – at 2, aft of the first lights – at 3 as seen in figures 1-2. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Fima and add the circular bank of display lights of Garr, so as to allow for the lure to be more attractive to fish.

Referring to claim 2, Fima as modified by Treon and Garr further discloses a second linear bank of lights parallel to the first bank – see for example figure 1 and column 4 lines 18-24 of Treon.

Referring to claims 3 and 12, Fima as modified by Treon and Garr further discloses at least one flasher module – at 28-50, connected to the lights operative to flash the lights on and

off for the purpose of attracting fish – see for example figures 3-4 and column 2 lines 62-68 and column 3 lines 1-23 of Fima.

Referring to claims 4 and 13, Fima as modified by Treon and Garr further discloses the flasher module is operative to sequentially flash lights of the light banks – see for example figures 3-4 and column 2 lines 62-68 and column 3 lines 1-23 of Fima.

Referring to claim 5, Fima as modified by Treon and Garr further discloses a metal leader tube – at 32,34 and/or 42, passing centrally through the lure body and the jacket – see for example figures 3-4 of Fima.

Referring to claims 6 and 27, Fima as modified by Treon and Garr further discloses the lights are light emitting diodes – see for example column 2 lines 40-51 of Fima and columns 3-4 of Garr.

Referring to claim 7, Fima as modified by Treon and Garr further discloses the lights are green – see for example column 4 lines 55-62 of Garr.

Referring to claim 14, Fima as modified by Treon and Garr further disclose the flasher module – at 28-50, is connected to the first light – at 38, to sequentially flash the light – see for example figures 3-4 and column 2 lines 62-68 and column 3 lines 1-23 of Fima, and including a second flasher module – at the other end of 28-50, connected to the aft light – at 40, operative to sequentially flash the aft light – see for example figures 3-4 and column 2 lines 62-68 and column 3 lines 1-23 of Fima.

Referring to claims 24-26, Fima discloses a lure body – at 20, a jacket – see at 12 in figure 1, installed on the body made of a light transmissive material and configured to visually resemble a bait attractive to a sport fish – see for example figures 1-4, the body including a

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housing with generally light transmissive sidewalls – see at the interior of 20, and an interior space for accommodation of display lights – at 28,40, a first light – at 38, installed in the housing parallel to an intended direction of travel of the lure through a body of water – see for example figures 1-4, and viewable through the sidewalls of the housing, a display light – at 40, installed in the housing aft of the first linear bank of lights and including an aft facing light – at 40, a fiber optic bundle – at 48, having a first end connected inside the housing next to the aft light – at 40 as seen in figures 3-4, so as to receive light from the aft light, and a second end extending aft out of the housing to transmit light from the aft light – see for example figures 1-4, a battery pack – at 50, installed in the housing and connected to the lights – see for example figures 3-4, and an on/off switch – at 28-34, connected between the display lights and the battery pack to turn the display lights on and off – see for example figures 3-4 and column 2 lines 62-68 and column 3 lines 1-23. Fima further discloses at least one flasher module – at 28-50, connected to the lights operative to flash the lights on and off for the purpose of attracting fish – see for example figures 3-4 and column 2 lines 62-68 and column 3 lines 1-23. Fima does not disclose the first light is a first and second linear bank of lights. Treon does disclose the first light – see the sidewalls of the lure in figure 1, is a first and second linear bank of lights – see for example figure 1 and column 4 lines 18-24. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Fima and add the linear bank of lights of Treon, so as to allow for the light to be made more uniform along the length of the lure. Fima further does not disclose a circular bank of display light installed in the housing aft of the first lights. Garr does disclose a circular bank of display lights – at 3, in the housing – at 2, aft of the first lights – at 3 as seen in figures 1-2. Therefore it would have been obvious to one of ordinary skill in the art to take the device of

Fima and add the circular bank of display lights of Garr, so as to allow for the lure to be more attractive to fish.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fima as modified by Treon and Garr as applied to claim 4 above, and further in view of U.S. Patent No. 3,952,445 to Liebert. Fima as modified by Treon and Garr does not disclose a clear epoxy resin filling the interior space of the housing and encapsulating the items therein. Liebert does disclose a clear epoxy resin – at 10, filling the interior space of the housing – at 17 or 19, and encapsulating the items therein – see for example figures 3 and 5. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Fima as modified by Treon and Garr and add the clear epoxy resin device of Liebert, so as to allow for the device to be more lifelike.

Claims 9 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fima as modified by Treon and Garr as applied to claims 4 or 27 above, and further in view of U.S. Patent No. 4,175,348 to Ray. Fima as modified by Treon and Garr does not disclose the on/off switch is a magnetically actuated reed switch operable through the use of a magnet held exteriorly to the housing. Ray does disclose the on/off switch is a magnetically actuated reed switch – at 30, operable through the use of a magnet – at 34,36, held exteriorly to the housing – at 32 – see for example figures 1-2. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Fima as modified by Treon and Garr and add the reed switch of Ray, so as to allow for the device to have intermittent operation of the lights.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fima as modified by Treon and Garr as applied to claim 4 above, and further in view of U.S. Patent No. 4,516,350 to Malphrus. Fima as modified by Treon and Garr does not disclose the jacket is configured in

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the likeness of a squid. Malphrus does disclose the jacket – at 10-14, is configured in the likeness of a squid – see for example figures 1-3. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Fima as modified by Treon and Garr and add the jacket in the likeness of a squid of Malphrus, so as to allow for the lure to be more attractive to fish.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fima as modified by Treon and Garr as applied to claim 4 above, and further in view of U.S. Patent No. 6,581,319 to West. Fima as modified by Treon and Garr does not disclose the battery pack includes a plurality of rechargeable batteries and a recharging circuit connected to the batteries and a recharging receptacle installed in the housing sidewalls. West does disclose the battery pack – at 26, includes a plurality of rechargeable batteries – see for example figures 1-2 and column 3 lines 48-60, and a recharging circuit connected to the batteries – see for example at 22-38 in figure 2, and a recharging receptacle installed in the housing sidewalls – see for example at 12-18 in figure 2. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Fima as modified by Treon and Garr and add the rechargeable batteries of West, so as to allow for the device to be reusable for a long period of time.

Claims 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fima in view of Garr.

Referring to claim 15, Fima discloses a lure body – at 20, a jacket – see at 12 in figure 1, installed on the body made of a light transmissive material and configured to visually resemble a bait attractive to a sport fish – see for example figures 1-4, the body including a housing with generally light transmissive sidewalls – see at the interior of 20, and an interior space for

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accommodation of display lights – at 28,40, a first light – at 38, installed in the housing parallel to an intended direction of travel of the lure through a body of water – see for example figures 1-4, and viewable through the sidewalls of the housing, a display light – at 40, installed in the housing aft of the first linear bank of lights and including an aft facing light – at 40, a fiber optic bundle – at 48, having a first end connected inside the housing next to the aft light – at 40 as seen in figures 3-4, so as to receive light from the aft light, and a second end extending aft out of the housing to transmit light from the aft light – see for example figures 1-4, a battery pack – at 50, installed in the housing and connected to the lights – see for example figures 3-4, and an on/off switch – at 28-34, connected between the display lights and the battery pack to turn the display lights on and off – see for example figures 3-4 and column 2 lines 62-68 and column 3 lines 1-23. Fima does not disclose a circular bank of display light installed in the housing aft of the first lights. Garr does disclose a circular bank of display lights – at 3, in the housing – at 2, aft of the first lights – at 3 as seen in figures 1-2. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Fima and add the circular bank of display lights of Garr, so as to allow for the lure to be more attractive to fish.

Referring to claim 16, Fima as modified by Garr further discloses at least one flasher module – at 28-50, connected to the lights operative to flash the lights on and off for the purpose of attracting fish – see for example figures 3-4 and column 2 lines 62-68 and column 3 lines 1-23 of Fima.

Referring to claim 17, Fima as modified by Garr further discloses the flasher module is operative to sequentially flash lights of the light banks – see for example figures 3-4 and column 2 lines 62-68 and column 3 lines 1-23 of Fima.

Referring to claim 18, Fima as modified by Garr further discloses the lights are light emitting diodes – see for example column 2 lines 40-51 of Fima and columns 3-4 of Garr.

Referring to claim 19, Fima as modified by Garr further discloses the lights are green – see for example column 4 lines 55-62 of Garr.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fima as modified by Garr as applied to claim 19 above, and further in view of U.S. Patent No. 3,952,445 to Liebert. Fima as modified by Garr does not disclose a clear epoxy resin filling the interior space of the housing and encapsulating the items therein. Liebert does disclose a clear epoxy resin – at 10, filling the interior space of the housing – at 17 or 19, and encapsulating the items therein – see for example figures 3 and 5. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Fima as modified by Garr and add the clear epoxy resin device of Liebert, so as to allow for the device to be more lifelike.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fima as modified by Garr as applied to claim 20 above, and further in view of U.S. Patent No. 4,175,348 to Ray. Fima as modified by Garr does not disclose the on/off switch is a magnetically actuated reed switch operable through the use of a magnet held exteriorly to the housing. Ray does disclose the on/off switch is a magnetically actuated reed switch – at 30, operable through the use of a magnet – at 34,36, held exteriorly to the housing – at 32 – see for example figures 1-2. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Fima as modified by Garr and add the reed switch of Ray, so as to allow for the device to have intermittent operation of the lights.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fima as modified by Garr as applied to claim 20 above, and further in view of U.S. Patent No. 4,516,350 to Malphrus. Fima as modified by Garr does not disclose the jacket is configured in the likeness of a squid. Malphrus does disclose the jacket – at 10-14, is configured in the likeness of a squid – see for example figures 1-3. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Fima as modified by Garr and add the jacket in the likeness of a squid of Malphrus, so as to allow for the lure to be more attractive to fish.

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fima as modified by Garr as applied to claim 20 above, and further in view of U.S. Patent No. 6,581,319 to West. Fima as modified by Garr does not disclose the battery pack includes a plurality of rechargeable batteries and a recharging circuit connected to the batteries and a recharging receptacle installed in the housing sidewalls. West does disclose the battery pack – at 26, includes a plurality of rechargeable batteries – see for example figures 1-2 and column 3 lines 48-60, and a recharging circuit connected to the batteries – see for example at 22-38 in figure 2, and a recharging receptacle installed in the housing sidewalls – see for example at 12-18 in figure 2. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Fima as modified by Garr and add the rechargeable batteries of West, so as to allow for the device to be reusable for a long period of time.

Response to Arguments

3. Applicant's amendments dated 6-28-05 have overcome the rejections under 35 U.S.C. 112 2nd paragraph.

Regarding the prior art rejections to claims 1, 15 and 24-25, the Fima reference US 4250650 does disclose the body of the lure has light-transmissive walls in that the portions – at 46, of the body allow light to be shown from the light – at 38 and thus are portions of the walls of the body of the lure which are capable of transmitting light and the light through these portions – 46 is viewable. Further, the portion of the lure – at 12, can be construed as a jacket in that as seen in figure 3, item – 12, surrounds portions of the lure such as – at 28 and 32 and 38 and 40 and 30 and 22, and therefore acts as a jacket to these components of the lure. Fima does disclose a bank of lights in that multiple lights – at 38 and 40 are shown as seen in figure 3. Further, the fiber optic bundles – at 44 and 48 can be construed as lights in that as seen in Merriam-Webster's Collegiate Dictionary 10th edition the definition of a light as a medium through which light is admitted. As seen in figure 3 light from items 38 and 40 is allowed to pass through the fiber optic bundles – at 44 and 48, and therefore the fiber optic bundles meet the definition of a light.

Therefore the fiber optic strands shown – at F in the Treon reference US 4799327 are deemed lights and as seen in figure 1 of the Treon reference the fiber optic strands – at F are shown in a linear orientation.

Further, applicant argues that the combination of the Fima reference and the Garr reference US 4727674 is improper regarding the circular bank of lights in use with a fiber optic bundle. As seen in figure 3 of Fima, a light – at 40 is disclosed in the aft end of lure used in conjunction with fiber optic bundle – at 48. The Garr reference discloses a circular bank of lights

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– at 3 or 17, used in conjunction with a rear facing light – at 3 or 17 as seen in figures 2-3 and 5.

Further, the embodiment of Garr using lights – at 17, use fiber optics as seen in column 2 line 67.

Therefore, taking the light of Fima and replacing it with the circular bank of lights as that of Garr is deemed proper given the motivation to combine the references stated above in paragraph 2 of this office action.

Regarding claim 2, the Treon reference does disclose two linear banks of lights – at F being formed by the fiber optic bundles – at 38 and 39 as seen in figure 2 and column 4 lines 13-28.

Regarding claims 3 and 12, the Fima reference does disclose a flasher module as seen in column 2 lines 62-68 and column 3 lines 1-23 where the operation of the lights – at 38 and 40 is described as being intermittent in that the battery – at 50 and contacts – at 24 are made to be moved into and out of contact with one another to cause power from the battery to be transferred to the lights – at 38 and 40.

Regarding claims 4 and 13, the Fima reference does disclose a flasher module as seen with reference to claims 3 and 12 above. Further, as seen in reference to claim 1 above in this paragraph of this office action the fiber optic bundles – at 44 and 48 can be construed as banks of lights and therefore the Fima reference in combination with the Treon and Garr reference discloses the invention as claimed.

Regarding claim 5, the Fima reference does disclose a metal leader tube – at 32,34 and/or 42, passing centrally through the lure body and the jacket as seen in figures 3-4 where the tube is made of metal as seen in column 2 lines 27-51.

Regarding claim 8, the Liebert reference discloses a clear epoxy resin – at 10, used to fill an interior space as seen in figures 3 and 5, to encapsulate any objects in the interior space as seen in figures 3 and 5. The Liebert reference is only used to disclose the use of the epoxy resin on a lure body. The Fima reference is used to disclose the lure body encapsulating the light banks, battery, switch and flasher module and the combination of the Fima and Liebert references is used to render the claims obvious with the motivation to combine the references stated above in paragraph 2 of this office action.

Regarding claim 9, the Ray reference US 4175348 discloses a reed switch as seen in figure 2 and column 1 lines 50-60, operable through use of a magnet – at 34,36,38, held exteriorly to the housing as seen in figures 1-2 where the magnet members are exterior to portions of the lure body.

Regarding claim 10, the Fima reference does disclose a jacket – at 12 as seen above in reference to claim 1. The Malphrus reference US 4516350 does disclose a jacket – at 43, shaped as a squid as seen in figures 1-3, where the jacket – at 43, encapsulates portions of 28 and 36-41 and therefore is a jacket.

Regarding claim 11, the West reference US 6581319 does disclose rechargeable batteries – at 26, and a circuit connecting the electrical components – at 22-38 as seen in figure 2 and further discloses receptacles – at the interior of items 12-18.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Parsley whose telephone number is (571) 272-6890. The examiner can normally be reached on Monday-Friday from 8am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David Parsley
Patent Examiner
Art Unit 3643



PETER M. POON
SUPERVISORY PATENT EXAMINER

8/27/05